

I (a) PLAINTIFFS

Michiel Everett, Jose A. Torres and
30el Morales

DEFENDANTS

Tenet Healthcare Corporation and
American Med. Central, Inc. d/b/a
Palmetto General Hospital

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Miami-Dade
(EXCEPT IN U.S. PLAINTIFF CASES)

Deed 03-22525/Martinez/PLK

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED

CIV-MARTINEZ

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Ande Rivera-Ortiz, Esq.
Law Offices of Ande Rivera-Ortiz, P.A.
330 S.W. 27th Ave, Suite 608, Miami, FL 33135

ATTORNEYS (IF KNOWN)

unknown

MAGISTRATE JUDGE
DUBI

(d) CIRCLE COUNTY WHERE ACTION AROSE:

DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

☐ 1 U.S. Government
Plaintiff

☒ **Federal Question**
(U.S. Government Not a Party)

☐ 2 U.S. Government
Defendant

☐ 4 Diversity
(Indicate Citizenship of
Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX
FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

Citizen of This State ☐ 1 ☐ 1

Citizen of Another State ☐ 2 ☐ 2

Citizen or Subject of a
Foreign Country ☐ 3 ☐ 3

PTF DEF
Incorporated or Principal Place
of Business in This State ☐ 4 ☐ 4
Incorporated and Principal Place
of Business in Another State ☐ 5 ☐ 5
Foreign Nation ☐ 6 ☐ 6

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Iva. 2 days estimated (for both sides) to try entire case.

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

A CONTRACT	A TORTS	B FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Water Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other A LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Legislation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark B SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395d) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DHC/DHWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) A FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Recreiter Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

☒ Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Refiled

Transferred from
☐ 5 another district (specify)

☐ 6 Multidistrict Litigation

Appeal to District
☐ 7 Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A **CLASS ACTION**
☐ UNDER F.R.C.P. 23

DEMAND \$

Check YES only if demanded in complaint

JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY

JUDGE

DOCKET NUMBER

DATE

9/25/03

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

FOR OFFICE USE ONLY:

Receipt No.

884846

Amount:

152 --

S/P 1-2

REV. 6/90

Date Paid:

9/25/03

W/ifu

4. Jurisdiction is conferred on this Court by 28 U.S.C. § 1337 and by 29 U.S.C. § 216(b). Defendants are, and at all times pertinent to this Complaint were, engaged in interstate commerce. At all times pertinent to this Complaint Defendants, individually and/or collectively, regularly owned and operated a business and utilized goods, products and/or materials that moved in interstate commerce. Based upon information and belief the annual gross sales of Defendants, individually and/or collectively, were in excess of \$500,000.00 per annum.

5. Tenet and American were single and/or joint employers of Plaintiffs. By reason of the foregoing, Defendants were, individually and collectively, during all times hereafter mentioned an enterprise engaged in commerce or in the production of goods for commerce as defined in §§ 3(r) and 3(s) of the Act, 29 U.S.C. §203(r) and 203(s).

6. At all times pertinent to this Complaint Defendants failed to comply with 29 U.S.C. §§ 201-219, and DOL Regulation 29 C.F.R. §§516.2 and 516.4, in that Plaintiffs performed services for Defendants for which no provision was made by the Defendants to properly pay Plaintiffs for those hours.

7. Everett started to work for Defendants around 2001. Torres started to work for Defendants around 1998. Morales started to work for Defendants around 2002. Plaintiffs worked as polysomnographic technicians ('Sleep Technicians') at Palmetto General Hospital in Miami, Florida. By reason of such employment, Plaintiffs were employed during the relevant period by an enterprise engaged in commerce or in the production of goods for commerce within the

meaning of 29 U.S.C. §§ 206(a) and 207(a). Further, Plaintiffs themselves were engaged in commerce. The work performed by Plaintiffs was directly essential to the business of Defendants in interstate commerce, which was directly essential to the business performed by Defendants.

8. Torres hourly rate at Defendants was \$21.61 an hour. Everett's hourly rate at Defendants was \$20.03 an hour. Morales's hourly rate at Defendants was \$17.50 an hour.

9. In the course of employment with Defendants, Plaintiffs worked the number of hours required of them but were not paid time and one-half for all the hours worked in excess of forty (40) per work week during one or more work weeks.

10. The records concerning the number of hours actually worked by Plaintiffs are in the possession, custody and control of Defendants.

COUNT I: RECOVERY OF OVERTIME COMPENSATION

11. Plaintiffs readopt and re-allege all allegations contained in Paragraphs 1 through 10 above.

12. Plaintiffs are entitled to be paid time and one half of their regular rate of pay for each hour worked in excess of forty (40) per work week for each week during the relevant period where they were not paid said time and one half.

13. By reason of the said intentional, willful and unlawful acts of Defendants, Plaintiffs have suffered damages plus incurring costs and reasonable attorney's fees.

14. As a result of Defendants' willful violation of the Act, Plaintiffs are entitled to liquidated damages in an equal amount to that set forth in Paragraph 12 above.

WHEREFORE Plaintiffs demand judgment against Defendants, jointly and/or severally, for the wages and overtime payments due them during the relevant period for the hours worked by them for which they were not been properly compensated, liquidated damages and attorney's fees and cost of suit, and for all proper relief including prejudgment interest. Plaintiffs further request that the Court award such other remedies as it deems just and proper. Plaintiffs demand trial by jury.

DATED THIS 25 day of Sept, 2003

Respectfully submitted,

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by

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